

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 1:36 p.m. on March 18, 2004, in Room 526-S of the Capitol.

All members were present except:

Representative Brenda Landwehr- excused
Representative Joe McLeland - excused

Committee staff present:

Dr. William Wolff, Legislative Research Department
Rena Jefferies, Office of Revisor of Statutes
Gary Deeter, Secretary

Conferees appearing before the committee:

Adam Obley, Governor's Fellow, Office of Health Planning and Finance
Larry Buening, Executive Director, Board of Healing Arts
Paul Silovsky, Kansas Physical Therapy Association
Thomas Bell, Executive Vice President, Kansas Hospital Association
Margaret Farley, Kansas Trial Lawyers Association
Cristine Elliott, Pittsburg, personal story
Deanne Bacco, Executive Director, Kansas Advocates for Better Care
Phyllis Kelly, Executive Director, Kansas Adult Care Executives Association
Larry Magill, Executive Vice President, Kansas Association of Insurance Agents
Kevin Fowler, Kansas Health Care Association
Michael Donnelly, Kansas Advocacy and Protective Services
Ernest Kutzley, AARP
Ami Hyten, Assistant Executive Director, Topeka Independent Living Resource Center

Others attending:

See Attached List.

The Committee approved the minutes for March 17, 2004.

The Chair opened the hearing on **HB 2939**, which adds three persons to the Health Care Data Governing Board. Adam Obley, Governor's Fellow, Office of Health Planning and Finance, spoke in favor of the bill, saying that there is a plethora of health-care data, but inadequate analysis and formatting of the data, both of which hinder the understanding of issues related to insurance coverage, access to health care, and quality. He said the bill will broaden the scope of the information to better serve employers and policy makers. (Attachment 1)

Answering a question, the Chair said the proposed legislation had no fiscal impact on the state, and he closed the hearing on **HB 2939**.

CONTINUATION SHEET

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE at 1:36 p.m. on March 18, 2004, in Room 526-S of the Capitol.

A motion was made, seconded and passed to recommend **HB 2939** as favorable for passage.

The Chair opened the hearing on **SB 529**, which adds two classes of persons authorized to approve the initiation of physical therapy treatment.

Larry Buening, Executive Director, Board of Healing Arts, testified as a proponent, noting that a Senate amendment satisfied a concern of the Kansas Medical Society. (Attachment 2) Answering questions, he said that both occupational therapists and respiratory therapists are able to initiate treatment based on a referral from a physicians assistant or an advanced registered nurse practitioner, but a physical therapist cannot do so; the bill levels the playing field for the equivalent professions.

Paul Silovsky, Kansas Physical Therapy Association, spoke in favor of the bill, saying the bill makes a technical change, noting that presently when a physicians assistant makes a referral to a physical therapist, the physical therapist must consult with a physician before beginning treatment. (Attachment 3)

Thomas Bell, Executive Vice President, Kansas Hospital Association, speaking as a proponent, said that the ability of a physician assistant making a referral which the physical therapist cannot accept is an anomaly in health-care practice; the bill corrects this. (Attachment 4)

The Chair closed the hearing on **SB 529**.

By motion, second and favorable vote, the Committee recommended **SB 529** as favorable for passage.

The Chair opened the hearing on **SB 430**, which prohibits the results of adult care home surveys from being admitted as evidence in a civil proceeding.

Margaret Farley, Kansas Trial Lawyers Association, spoke as a proponent. (Attachment 5) She said the bill as amended by the Senate allows judges the discretion necessary to determine on a case-by-case basis whether information in a nursing home survey report is relevant. She urged the Committee to resist any efforts to amend into the bill the provisions of **HB 2306**, which, she said, severely limits the information allowed in a court case.

Cristine Elliott, Pittsburg, gave her personal experience in support of the bill. (Attachment 6) She said that after her brother died from abuse in an adult care home, if the family had not been allowed to go to the judge to find out the truth, the family would never have been able to bring about changes in the system, saying that as a result of their court case, significant changes were made.

Deanne Bacco, Executive Director, Kansas Advocates for Better Care, testified in support of the bill, saying the bill as amended is much better than **HB 2306**. (Attachment 7)

Phyllis Kelly, Executive Director, Kansas Adult Care Executives Association, said that KACE would support

CONTINUATION SHEET

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the bill only if **HB 2306** were to be amended into it. (Attachment 8)

Larry Magill, Executive Vice President, Kansas Association of Insurance Agents, also said KAIA would support the bill only if **HB 2306** were amended into it, saying he is not opposed to the concept of **SB 430**, but that it does not address the problem that many adult care home reports are extremely negative and therefore prejudicial to a fair weighing of evidence in a court case. (Attachment 9) He said insurance underwriters consider survey reports when writing insurance coverage on care homes, the reports being a cause of the skyrocketing liability insurance for care homes.

Kevin Fowler, Kansas Health Care Association, likewise stated that KHCA supports the amending of **HB 2306** into **SB 430**, saying that the former is more specific and that the latter has unintended consequences of sending a message to judges to apply a more expansive rule of evidence than in the past. (Attachment 10) He also noted that the bill does not affect the discovery process and therefore the story of Cristine Elliott has no application to the bill.

Michael Donnelly, Kansas Advocacy and Protective Services, spoke as an opponent. (Attachment 11) He said his earlier testimony against **HB 2306** applies as well to this bill: that the *St. Francis* decision would make this law unconstitutional and that it is poor public policy to decrease accountability of those entrusted with the care of loved ones.

Ernest Kutzley, AARP, testified as an opponent of the bill, saying that his legal advisors in Washington D.C., in commenting on the bill, stated that the bill allows a care home to hide essential and relevant information from juries. He observed that no other business is given such protection and that inspection reports can show a pattern of neglect that juries need to know. (Attachment 12)

Ami Hyten, Assistant Executive Director, Topeka Independent Living Resource Center, spoke as an opponent and offered an amendment to the bill. (Attachment 13) (Attachment 14) She said that nursing homes are care-giving institutions; coming to the legislature to propose limits to their exposure for accountability is unconscionable when people we have entrusted to their care abuse that trust. She noted that to make a distinction between discoverable and admissible evidence is disingenuous.

The Committee posed questions to various conferees. Ms. Elliott said that the care home where her brother lived had done a background check on the abusive employee before his hiring, but none following his being employed. Mr. Magill said that there was no study showing the relationship between insurance underwriting costs and inspection reports, adding the comment that an inspection report indicates a level of risk to the underwriter. Ms. Farley said that **SB 430** codifies current law but does not reform it. Representative Kirk commented that inspection reports do not take into account changes in personnel or changes in administration of a care home. Ms. Farley replied to another question that inspection reports are important to identify patterns of care in a care home, that the factual items in the report are for a judge and jury to sort out. Mr. Magill said that care-home insurance rates have increased exponentially—that in the last four years rates have gone from \$35 per bed to \$1000 per bed in Kansas. He said that losses, not inspection reports, drive rates,

CONTINUATION SHEET

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but that the reports contribute to losses. Mr. Fowler said that with current law and under **SB 430**, a judge may allow an inspection report into evidence even if it has little or nothing to do with a claim and punishes a facility even if it is not directly responsible for injury to a claimant. He said the primary information used in lawsuits is the medical record, not inspection reports. Mr. Magill said the 10-year loss-ratio of care home insurers in Kansas was 179%; in 1998, 615%. Representative Bethell commented that were care homes allowed to place the increased cost of insurance into a fund for home- and community-based care, the issue of the bill would be irrelevant. Answering a question about typical judgments of courts, Ms. Farley said Kansas allows only economic damages and no punitive damages; economic damages are by statute capped at \$250,000, and wrongful death is likewise capped at \$250,000.

The Chair closed the hearing on **SB 430**.

The meeting was adjourned at 3:05 p.m. The next meeting is scheduled for Monday, March 22, 2004.

**HOUSE HEALTH AND HUMAN SERVICES COMMITTEE
GUEST LIST**

DATE: MARCH 18 2004

NAME	REPRESENTING
K Linda Bernott	KHCA
Kevin Fowler	KHCA
Phyllis Kelly	KACE
Larry Magill	KS. ASSN OF INS. AGENTS
Dan Small	
Chris Elliott	
Ami Hyten	TILRC
Joyce Jackson	TIURC
Jesie Torres	SILCR
Sharon Joseph	KS ADAPT
Shannon Jones	SILCR
Margaret Parley	KTLA KABC
DEBORAH STERN	KMA

Mr. Chairman, members of the committee, good afternoon. My name is Adam Obley and I am a Governor's Fellow working with the Office of Health Planning and Finance. I appear today in support of HB 2939 which adds three members to the Health Care Data Governing Board.

In our efforts to research and initiate health care reform for Kansas, we have found that Kansas has a substantial amount of health care data but that the analysis and format of that data is inadequate. This lack of information hinders efforts to understand issues related to insurance coverage, access to health care services, and outcomes and quality. No agenda for health care reform can succeed unless it is based on high quality data.

Additionally, employers are major consumers of health care data. Employers use these data to design benefit packages and to be informed consumers in the insurance market.

The bill before you simply adds three members to the Health Care Data Governing Board. One member would represent a large self-insured employer, one would represent a small self-insured employer, and the third member would be appointed as the Governor deems appropriate. The effect of this legislation is not to remove any members from the Board, but to enhance its membership with end-users of health care data. These new members can help identify the data that are necessary for businesses to be good insurance consumers and can help direct systemic reform in health care.

It is also our belief that adding end-users will encourage self-insured businesses to submit their data, thus broadening the scope of the information and investing it with greater value as we try to understand the self-insured market.

In conclusion, this bill will enhance the state's ability to manage health care data and better serve the employers and policy makers who use these data.

Thank you for your time.

Attachment 1
HHS 3-18-04

KANSAS BOARD OF HEALING ARTS

LAWRENCE T. BUENING, JR.
EXECUTIVE DIRECTOR



KATHLEEN SEBELIUS, GOVERNOR

MEMO

TO: House Committee on Health and Human Services
FROM: Lawrence T. Buening, Jr.
Executive Director
DATE: March 18, 2004
RE: Senate Bill No. 529

Thank you for the opportunity to appear on behalf of the State Board of Healing Arts regarding S.B. 529. This bill would allow physical therapists to initiate physical therapy treatment after consultation with and approval by a licensed physician assistant (P.A.) or an advanced registered nurse practitioner (ARNP) who is working pursuant to the order or direction of a licensed physician.

The Board is of the opinion that a P.A. may, under current law, provide an order for the initiation of physical therapy treatment, if they have the authority to do so from a physician. K.S.A. 65-28a08 allows P.A.s to provide medical services that are delegated by a physician. These services must be provided under the direction or supervision of a responsible physician. K.S.A. 65-2872(g) allows persons to perform services which constitute the practice of the healing arts "under the supervision or by order of or referral from a practitioner...". K.S.A. 65-28,127 places duties and responsibilities upon healing arts licensees who direct, supervise, order, refer or delegate acts which constitute the practice of the healing arts to other persons. On the other hand, the current language in K.S.A. 65-2901 restricts a physical therapist from initiating treatment until "after consultation with and approval by" a physician, podiatrist, chiropractor or dentist. Therefore, while a P.A., if so authorized by a physician, may lawfully order physical therapy, the physical therapist cannot initiate treatment based on these orders until they have consulted with and obtained approval by a member of one of these four professions.

The language in the physical therapy law differs from that in some other acts. K.S.A. 65-5402(b) defines the practice of occupational therapy to include treatment pursuant to the "referral, supervision, order or direction of a physician...". "Respiratory therapy" is defined in K.S.A. 65-5502(b) to include those who practice under the "supervision of a qualified medical director". Thus, occupational therapists and respiratory therapists are not prohibited from performing professional services ordered by a P.A. if the P.A. is acting under the authority granted to them by a physician through protocols, guidelines, or other authorization.

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JOHN P. WHITE, D.O., Pittsburg

235 S. Topeka Boulevard, Topeka, Kansas 66603-3068
Voice 785-296-7413 Fax 785-296-0852 www.ksbha.org

Attachment 2
HHS 3-18-04

The amendments made by the Senate Committee have addressed a question we had about the bill as originally introduced as to whether P.A.s and ARNPs would be allowed to independently order physical therapy without authority from the responsible physician. As passed by the House, it appears that this bill will improve the accessibility and availability of physical therapy treatment to citizens of Kansas.

Thank you for the opportunity to appear before you. I would be happy to respond to any questions.

To: The House Health and Human Services Committee

**From: Paul Silovsky PT
Kansas Physical Therapy Association
Legislative Committee Chair**

Re: SB 529

Date: 3-18-04

Chairman Morrison and members of the Health and Human Services Committee, I submit to you testimony in support of **SB 529**.

This bill very simply clarifies within the PT statute the list of providers that may approve of the initiation of physical therapy treatment. SB 529 adds the Physician Assistant and Nurse Practitioner to the current list of providers. Under current statute the PT may evaluate without physician referral. However, prior to initiating treatment the PT must obtain the physician's approval. Thus, under the current PT practice act, the PT may accept the PA or Nurse Practitioner's referral, and may evaluate based upon that referral, but may not initiate treatment without the physician's approval.

The current PT practice act referral language is not consistent with the current authority of PA's and Nurse Practitioner's to prescribe and issue PT referrals. Further clarification of these two provider's authority to make referrals is needed for the following reasons;

1. Currently, physical therapy services are delayed when physician approval must be obtained prior to the initiation of treatment by the PT. This is especially a hardship in rural clinics and hospitals where PT may be delayed when non physician providers refer for PT and prior approval can not be readily obtained from the supervising or protocol physician. There are more and more PA's and ARNP's referring directly for PT treatment in all settings which in turn delay's the initiation of treatment without physician approval.
2. The current PT statute creates confusion and misunderstandings between the PT practitioner, the referring practitioner's office and the public when approval must be obtained and documented following the PA or Nurse Practitioner PT referral, especially if physician approval is not authenticated. Under current statute the PT must acquire physician approval to remain in compliance with the Kansas PT practice act.
3. Currently, if a PT were to accept an "evaluate and treat" order from the PA or ARNP who evaluated and referred the patient, the PT would be

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considered in violation of the PT practice act unless he/she secured approval from the supervising physician prior to the initiation of treatment.

In summary, the passage of SB 529 will improve the speed of access to pre-determined PT care, eliminate unnecessary confusion and upset within the current PT referral communications network, make the current medical practice acts consistent with regard to the delegation of physical therapy treatment and allow PT's to accept PA and ARNP referrals without being in violation of the current PT practice act.

I thank you for your time and positive consideration of SB 529. I would be happy to answer any questions that you might have.

Respectfully,

Paul Silovsky PT



TO: House Health and Human Services Committee

FROM: Thomas L. Bell
Executive Vice President

RE: SB 529

DATE: March 18, 2004

The Kansas Hospital Association appreciates the opportunity to comment in favor of the provisions of Senate Bill 529. This bill would help clarify state law regarding the ability of physical therapists to receive orders from midlevel practitioners.

Current Kansas law states that a physical therapist may initiate treatment only after consultation with and approval by a physician, dentist, chiropractor or podiatrist. The Board of Healing Arts has interpreted this law to prohibit a physician assistant or advanced registered nurse practitioner from providing the necessary consultation and approval.

The result of the Board's interpretation is that in number Kansas communities, especially those served by critical access hospitals, PAs and ARNPs are prevented from providing the extent of services probably intended by the Legislature. For example, the practice of a PA includes medical services delegated by the responsible physician. PAs practice in a dependent role through delegated authority or written protocol. Prohibiting a PA from making a referral to a physician therapist pursuant to such a protocol is inconsistent with the intent of the statutes.

Passage of SB 529 will help clarify this situation. Thank you for your consideration of our comments. If you would like to discuss this issue further, you may contact our office at 785-233-7436.

Attachment 4
HHS 3-18-04

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KANSAS TRIAL LAWYERS ASSOCIATION

719 SW Van Buren
Topeka, Kansas 66603
785-232-7756
785-232-7730 FAX

March 18, 2004

TO: Members of the House Health and Human Services Committee

FROM: Margaret Farley
Kansas Trial Lawyers

RE: SB 430

In its original form, the Kansas Trial Lawyers Association opposed SB 430 for the same reasons we opposed HB 2306. However, the Senate Judiciary Committee amended SB 430 to allow judges the discretion necessary to determine on a case-by-case basis whether information in the nursing home survey report is relevant.

KTLA supports SB 430, as amended and passed by the Senate. The federal and state nursing home inspection/survey system checks the owners' and operators' substantial compliance with, respectively, federal and state certification and licensure laws and regulations. The state licensure system was set up to protect the health, safety and welfare of our frail elders and disabled adults who reside in licensed nursing care facilities (also known as "adult care homes" in Kansas). The federal certification system was set up to do the same, and to assure minimal contractor compliance because Medicaid and Medicare are major payers for nursing facility care. There is only one survey for both purposes. The survey system is the back-bone of the certification and licensure systems. Taxpayers pay for a substantial part of all nursing facility care.

The nursing facility industry often attacks the survey system as unfair, subjective and inconsistent, but a regulated industry often complains about its government oversight. The survey system was the subject of a Legislative Post Audit Study within the last three or four years and found to be reasonably adequate and consistent. Further, nursing facilities have the right to contest cited deficiencies through informal dispute resolution and can dispute more serious deficiencies, which could result in enforcement actions, through the administrative appeals process, and beyond.

In any civil case, the trial judge is the arbiter of questions of admissibility of evidence and judicial rulings on such issues are based upon long-established Kansas case law and Kansas statutes. SB 430 as amended permits admissibility of nursing home inspection reports if they are determined by the trial judge to be otherwise relevant and admissible. This is entirely reasonable.

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Even if a survey report is admissible that does not mean that the nursing home can't dispute the survey findings. Trial lawyers for the nursing home defendants can attack the survey report evidence through cross-examination, expert witness testimony and arguments to the jury. The arguments to the jury will most likely be similar to the arguments that the industry is making to the public and their fellow legislators on this and related bills: that is, the survey is not fair; the surveyor was too subjective; the surveyor was nitpicking and cited the home for an ice cube on the floor; the regulatory violation is unrelated to the plaintiff's claim, et cetera. Advancing opposing arguments is, after all, the purpose of a jury trial.

Some persons are misrepresenting the issue by saying that "Doctors and hospitals already have these protections in Kansas". This may be a reference to the statutorily protected peer review process, which is an internal review process NOT a public survey. It may also be a reference to the refusal of the Joint Commission on Accreditation of Health Care Organizations (JCAHCO) to make its reports public. JCAHCO is a private entity which contracts with hospitals for quality assurance purposes. Public survey/inspection reports are clearly distinguishable from internally-generated quality assurance, JCAHCO and peer review documents.

The argument has been made by the industry that medical records will still be available even if the surveys are not. However, a key problem with medical records is that they are documents created by the defendant nursing homes. Aside from being a clearly biased representation of, for example, the home's steps to prevent bed sores or the circumstances of an unexplained fracture, many nursing home records are actually falsified.

Very often the survey report is the only objective documentation of regulatory compliance and quality of care, and derives from, among other things, surveyor onsite observation, review of medical records and staff, and resident and family interviews. As such it is a unique piece of contemporary evidence, and will be determined by the trial court to be either relevant and admissible or not, for that or other legal grounds, on a case by case basis.

We urge you not to be swayed by arguments that keeping the surveys out of the courtroom will reduce either insurance costs or litigation costs. Please ask for the industry to show proof of such claims. There is no basis whatsoever for either allegation. Insurance issues are real but should be addressed directly and not through a back-door attempt to keep public surveys away from the eyes and ears of the jury.

These surveys are already in the public domain. JCAHCO documents and private peer review documents are not. The survey report is conducted by the government, and the survey results, by federal and state law, are public, posted in every facility in the state. Protection of the interests and rights of consumers of nursing facility care should and must be paramount to the protection of the self-interest of the nursing home industry, even if your fellow legislators are a part of that industry. **KTLA respectfully urges passage of SB 430, as amended because it is fair to both parties and it leaves the relevancy and admissibility of all nursing home inspections to the trial court.**

March 17, 2004

To: House Health and Human Services Committee
From: Cristine M. Elliott
570 East 560th Avenue
Pittsburg, Kansas 66762
Re: Senate Bill 430 as amended by the Senate

It is my understanding that Senate Bill 430 as amended by the Senate will go to committee tomorrow. I had hoped to represent my family in a plea to support this bill as amended.

My brother, Carl Small was the victim of physical abuse while in the care of a Southeast Kansas nursing care facility. Carl was developmentally disabled and unable to communicate with us. Unfortunately, he could not tell us his story.

Carl died from peritonitis that resulted from a rupture in his small intestine. The autopsy report confirmed this was the result of blunt trauma. Through investigative research on the part of police and KBI investigators we were able to uncover the truth. Carl was the victim of an abusive employee who worked in the facility at night. He was the only employee present during that shift and therefore nobody else was there to protect my brother.

If our family had not been able to pursue the truth by using documentation made through contact notes, we would have never found out what really happened to Carl. As a result of our efforts, the facility has agreed to make positive changes that will help assure a safe environment for their clients. Additionally, they are now more conscientious about the qualifications and background of their employees. I believe their standards have improved as a result of Carl's death. Again, if we had not been able to use information from contact notes, we would have been left helpless. It is vital that nursing home surveys and contact notes are available. Without information from these surveys and reports, patterns of poor, neglectful or abusive care cannot be exposed.

Please pass Senate Bill 430 as the Senate has amended it and reject all amendments. Also please reject the language of House bill 2306. I urge you to empower Kansas families to be knowledgeable caretakers of their loved ones. It is vital that information be available to prevent neglectful and abusive situations in nursing homes. Through the discovery

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process we went through following Carl's death, there were numerous other cases of abuse and neglect involving other clients at the same facility. Unfortunately, their families are unaware of the circumstances of their loved ones deaths.

Patients in nursing facilities are also your constituents and need your protective action as elected officials. Please advocate for those who are unable to advocate for themselves. They need your careful and discriminating judgment as to what is in their best interest. Kansas families need all of the checks and balances possible to assure safe and quality care in nursing homes.

My family has many regrets about our situation. Even though Carl didn't lead the quality of life that the rest of us desire, he was a wonderful person with a kind, loving and innocent heart. As a professor at Pittsburg State University, I can truly say that Carl was my greatest teacher. I learned the lessons of life from him that textbooks and degrees cannot teach. Those are the lessons of caring, responsibility and compassion. Please support Senate Bill 430 as amended by the senate and help us protect people like Carl. Empower Kansas families to take care of their own.

Respectfully,

Cristine Elliott and the family of Carl Small

Harold and Pansy Small, Parents of Carl, Neodesha, Kansas
Dan and Beth Small, Brother of Carl, Neodesha, Kansas
Linda and Pat Mirocke, Sister of Carl, , Kansas
Dale and Carol Small, Brother of Carl, Neodesha, Kansas

**SB 430
disallowing nursing home inspection reports
as evidence in any judicial proceeding
March 17, 2004**

Honorable Chairman Morrison
and Health and Human Services Committee Members:

Kansas Advocates for Better Care (KABC) is in favor of SB 430 as amended

Consumers of licensed adult care homes highly value freedom of information. Information helps consumers make good placement decisions as well as become knowledgeable about deficiencies that occur in licensed care homes, such as nursing homes.

K.S.A. 39-935 currently allows any person to see and get copies of nursing home inspection reports and related documents. Nursing home inspection reports and related documents are public information, according to state law.

We recognize that SB 430 and HB 2306 are similar in nature. Both bills concern the admissibility of nursing home inspection reports as evidence in suits by injured nursing home residents against nursing homes. **Based on K.S.A. 39-935, we oppose any language that allows such limitation of evidence.** It is the duty of district court judges to listen to the facts of a case, and determine whether or not evidence is admissible.

KABC supports SB 430 only as amended.

Thank you for allowing this testimony.

Deanne Bacco, Executive Director

ORAL AND WRITTEN TESTIMONY
PROPONENT

Thursday, March 18, 2004

Testimony before the House health and Human Services committee on SB 430. An Act relating to adult care homes; concerning the use of inspection reports; amending K.S.A. 39-935 and repealing the existing section.

Chairperson Morrison and Members of the Committee:

I am Phyllis Kelly, Executive Director of the Kansas Adult Care Executives Association (KACE). Our association represents over 250 adult care home executives in nursing homes and assisted living facilities throughout Kansas. I appear before you today in support of SB 430 if amended to the language in HB 2306.

The KACE Board of Directors has reviewed the components of HB 2306. We concur with the proposed amendment which would keep the survey records and inspection reports inadmissible as evidence in any judicial proceeding. Other health care providers already have this protection in civil court, and we are asking for the same protection. These documents will still be a part of the public domain.

We urge your support of SB 430 if amended to language in HB 2306.

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Testimony Before the House Health & Human Services Committee
On SB 430
By Larry W. Magill, Jr.
Kansas Association of Insurance Agents
March 18, 2004

Thank you mister chairman and members of the committee for the opportunity to appear today in support amending the provisions of House Bill 2306 into Senate Bill 430 and then passing it out favorably. My name is Larry Magill and I'm representing the Kansas Association of Insurance Agents. We have approximately 425 member agencies across the state and another 125 branch offices that employ a total of approximately 2500 people. Our members write roughly 70% of the business property and liability insurance in Kansas.

We have been concerned with the alarming increase in rates and lack of availability of nursing home liability insurance for more than three years.

The Task Force on Long Term Care Services held a hearing on the issue of liability insurance for nursing homes on September 4, 2002 where Tom Murry with Insurance Center Inc in El Dorado testified for KAIA. The Task Force's 2003 report contained no recommendations other than to look at the state's survey process and use of HCFA 2567's to prove negligence in lawsuits by residents.

Kansas Has Loss & Insurance Problems

What industry have you ever known, that was unhappy with its insurance availability and cost, that didn't think they were being penalized for losses occurring in other states? And while Kansas has not had the severe problems of some states like California, Texas or Florida, neither have our nursing homes paid the premiums that a Florida nursing home pays.

I can tell you that one of the carriers that used to write nursing homes in Kansas and had, at one time, 55 locations insured with over 3700 beds had a ten-year general liability loss ratio of 179.52% for 1989 to 1998 and a loss ratio in 1998 of 615%.

Nursing homes have experienced a tremendous increase in their liability insurance costs in the last few years from rates of around \$35 per bed four years ago to as much as \$1,000 per bed today. They are being moved from an occurrence form to a claims made where rates will increase over the next 3-4 years as they progress to fully developed claims made rates. And their coverage will often have anywhere from a \$25,000 to \$50,000 liability deductible. In states like Florida, the rate can be as high as \$6,000 per bed. This has put a tremendous strain on nursing homes' budgets and on state Medicaid budgets.

Inspection Reports Are Misused

Nursing homes in Kansas are faced with state surveys that are extremely critical. The results must be posted in prominent display for the public to view and can be introduced

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as evidence in civil trials. This dramatically reduces, if not eliminates, an insurance company's defense in the event of a claim. Nursing homes should be held accountable if they do not provide proper care of our relatives and friends. But often these reports have little or nothing to do with what led to an injury.

Insurance companies are simply reacting to the increasing pressure of defending claims that may or may not be legitimate. These deficiency reports cause insurability problems for the nursing homes as well. Any level G violations can cause an underwriter to refuse to insure the home. The level G violation may be a simple fall where the home was not negligent at all.

Medicare is aggravating the situation by requiring, before they will process a claim, that the patient file a claim against the nursing home and present a denial to Medicare. This forces people to start thinking about holding the nursing home responsible regardless of whether there has been any negligence.

KAIA **supports SB 430** closing inspection records for the following reasons:

- Similar to Ohio legislation passed several years ago
- The reports make it too simple for plaintiff attorneys to use the records to prove negligence when the purpose is to inform the public and encourage sound operations
- Insurance companies then must use them as an underwriting tool when they weren't intended for that purpose either. But knowing they will be used by plaintiff's attorneys against the home, they have no choice.
- Minor infractions and "nit picking" by the state inspectors cause huge liability problems and insurance problems for the homes.
- The survey or inspection process for long-term care facilities is substantially analogous to the "peer review" process for other health care providers. "Peer review" documents involving doctors and hospitals are neither admissible as evidence in Kansas courts nor subject to discovery or disclosure in the civil litigation process.
- The survey report is a subjective, ambiguous report used by state agencies to identify alleged noncompliance with the Medicaid program. Form 2567 is not a reliable indicator of quality care and can create false or misleading impressions about a long term care facility.
- There is seldom a direct correlation between the survey findings and the injury to the resident yet they are used to show negligence. Were an excerpt of a report refers and relates directly to a plaintiff, we support allowing the judge to decide on the record, and in the absence of the jury, if it is admissible.

In our view, passing SB 430 as it passed the Senate would be perpetrating a cruel hoax on our state's nursing homes. The bill simply codifies the current rule of evidence that is largely being ignored now. In our opinion, it would do little to improve the situation. The reports would still be allowed into evidence and the insurance company underwriters would have to continue to price and select who they insure based on the criticisms in the report, regardless of a home's actual loss experience.

We urge the committee to amend the provisions of HB 2306 as it passed the floor of the House into SB 430 and act favorably on SB 430. It is one of the few ways the legislature can bring relief to spiraling nursing home costs, yet still leaves the tort system in place to protect residents from truly negligent homes.

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Testimony Before the House Committee on Health and Human Services
Regarding Senate Bill No. 430
by Kevin M. Fowler of Frieden, Haynes & Forbes
on Behalf of the
Kansas Health Care Association, Inc.

March 18, 2004

Chair Morrison and members of the Committee, my name is Kevin Fowler. I am a partner in the Topeka law firm of Frieden, Haynes & Forbes and I have been licensed to practice law in Kansas for nearly 22 years. During the past decade, a significant amount of my professional time and attention has been devoted to legal matters affecting the interests of Kansas adult care homes and their residents. I am appearing before the Committee on behalf of the Kansas Health Care Association, Inc.

The subject matter of Senate Bill No. 430 (which establishes a general prohibition against the admission of survey or inspection reports as evidence in civil actions) has already been fully heard and considered by this Committee in connection with House Bill No. 2306. The Kansas Health Care

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Association is pleased to request that the Committee reaffirm its support for House Bill No. 2306 by amending Senate Bill No. 430 in conformity with the substantive provisions of the House Bill as it was previously heard, considered and reported favorably by an overwhelming majority of this Committee and approved by the House of Representatives. In the interest of efficiency and economy, I have also separately submitted the power point presentation we previously furnished the Committee in connection with House Bill. No. 2306.

The Kansas Health Care Association's principal concern regarding Senate Bill No. 430 involves the provision that creates an exception to the inadmissibility of survey or inspection reports. Under House Bill No. 2306, excerpts from such reports may be used as evidence in civil actions where they directly relate and refer to the adult care home resident whose care or treatment is at issue in the lawsuit and they are otherwise admissible under the rules of evidence. This exception specifies the "degree of relatedness" that must be shown before any part of a survey or inspection report may be used as evidence.

On the other hand, Senate Bill No. 430 contains an exception for excerpts from survey or inspection reports that would allow the use and admission of such information as long as it is related to the plaintiff or "related to the allegations asserted by the named plaintiff." This language is problematic because it may have the unintended effect of nullifying the prohibition against using such reports as evidence in civil cases. Unfortunately, the Senate language does not specify any degree of relatedness between a survey or inspection report and the

named plaintiff, the plaintiff's legal cause of action or the plaintiff's factual allegations before excerpts from the report may be used as evidence. Because a survey or inspection report may always be viewed as bearing some amount of nexus or relatedness (however slight or tenuous) to a plaintiff's allegations, the exception contained in the Senate Bill could be construed in a manner that substantially, if not completely, eviscerates the prohibition against admissibility. Although we do not believe the Senate intended to create an exception that swallows the rule of inadmissibility, the language of Senate Bill No. 430 could be misinterpreted as approving current practice or increasing the authority of trial judges to permit the use of such reports as evidence.

The Kansas Health Care Association, therefore, urges the Committee to amend Senate Bill No. 430 so that it conforms to the substantive provisions and limitations contained in House Bill No. 2306.

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Testimony to the House Health & Human Services Committee

March 18, 2004

Chairman Morrison and members of the committee, my name is Michael Donnelly. I am the Director of Policy and Outreach for Kansas Advocacy and Protective Services. Kansas Advocacy & Protective Services, Inc. (KAPS) is a public interest legal advocacy agency, part of a national network of federally mandated and funded organizations legally empowered to advocate for Kansans with disabilities. As such, KAPS is the officially designated protection and advocacy organization for Kansans with disabilities. KAPS is a private, 501(c)(3) nonprofit corporation, independent of both state government and disability service providers. As the federally designated protection and advocacy organization for Kansans with disabilities our task is to assist persons with disabilities, regardless of age or disability, to live in the most integrated setting possible, and to ensure that they receive the appropriate medical care, support services and treatment in a safe and effective manner as promised by federal, state and local laws. That responsibility includes protecting the rights of individuals with disabilities who reside in adult care homes.

One of our core priorities is to “promote positive systems and policy changes that will increase the independence of Kansans with disabilities and enable them to live with dignity, independence and respect in the most integrated setting possible.” The legal and civil rights advocacy that KAPS does is all based in that belief. My comments today are also based in that core principle.

KAPS adamantly opposes SB 430 for both its content and the principals on which it is proposed. Adult care home inspection reports, Health and Human Services compliance reports, and other required reports are indicators of whether or not that particular care home is complying with

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applicable laws and regulations required for cleanliness, quality of food, recreation activities for residents and, most importantly, they are reports that address the quality of care and treatment of the individuals who live there. These reports are generally public information and as such provide adult care home accountability to its residents and the public.

We need to be clear. Many people living in a care facility are our most vulnerable citizens. Many are non-verbal and can not “speak up” when they are being mistreated, many unfortunately have lost the capacity to speak up for themselves when they believe that they are being mistreated, and finally, you must understand that residents far too often feel intimidated to where they do not speak out under a perceived fear of retaliation. In these cases the required reports speak on behalf of the residents.

In its 1998 case *Adams vs. St Francis* (264 KAN. 144 (1998)) the Kansas Supreme Court spoke to this very issue of access to compliance and other reports for the purpose of enforcing the rights of patients / residents to enforce an individual’s right to due process for mistreatment, or in this case malpractice. In its ruling, the Court stated “Although the interest in creating statutory peer review privilege is strong, it is outweighed by plaintiff right to have access to all facts relevant to issues raised in malpractice action against a defendant health care provider.” The Kansas legislature can not institute a law that denies a person’s right to full access to the courts and due process under the law. The proposal in SB 430 would be the ultimate abuse of the people who live in adult care homes, a denial of their right to defend themselves by what is all too often their last line of defense, due process of law.

KAPS strongly opposes any public policy that reduces or eliminates accountability of adult care homes. SB 430 and HB 2306 are bad public policy.



March 17th, 2004

Representative Morrison, Chair
House Health and Human Services
Senate Bill 430

Good afternoon Chairman Morrison and Members of the House Health and Human Services Committee. My name is Ernest Kutzley and I am the Advocacy Director for AARP Kansas. AARP Kansas represents the views of our more than 350,000 members in the state of Kansas. Thank you for this opportunity to express our comments and opposition to Senate Bill 430.

The Nursing Home Reform Act established state requirements for certifying nursing facilities that participate in the Medicare and Medicaid programs. The act established quality standards for nursing homes nationwide, established resident rights and defined the state survey and certification process needed to enforce the standards.

AARP supports strong nursing home quality standards. We believe that there is a need for effective oversight of nursing homes, combined with strong sanctions for health and safety violations.

AARP is working on nursing home issues in many states. While we believe that there are many good nursing homes, we also believe that there is a significant delimia with the number of nursing homes that have no insurance or assets, or nursing homes that are unable or unwilling to meet the minimum quality standards required by law. In these states we are working on solutions with all parties to ensure basic quality standards and access to courts for negligently harmed residents.

AARP supports legislation that improves the overall quality of care in nursing homes and protects the right of nursing home residents to be compensated for negligent harm they suffer. SB 430 and HB 2306 do not protect those resident's rights.

We believe that the intent of legislation such as SB 430 & HB 2306 is to hide essential and relevant evidence from a jury. AARP opposes hiding survey and inspection reports from a jury. Inspection and investigation reports:

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Jim Parkel, President | William D. Novelli, Executive Director and CEO | www.aarp.org

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- Are prepared by government employees at taxpayer expense,
- Are necessary to showing the existence of a pattern of abuse or neglect which could be claimed by a nursing home resident,
- Are essential to demonstrate that a nursing home had been notified of the problem being raised by the injured party,
- Should be admitted under the same circumstances as any other evidence.

AARP believes that:

- The task of any civil trial is to provide the jury with probative and relevant evidence from which the truth can be determined,
- Nursing homes currently have multiple opportunities to challenge the admissibility of survey reports if it can show that the reports are not relevant, not trustworthy, or would create unfair prejudice,
- Hiding survey reports creates special protections for an industry that is not available to other businesses or individuals, and does so to the detriment of injured nursing home residents.

While we understand that SB 430 has been amended to allow use of certain surveys, we cannot support proposed legislation unless all information is made available for protection of their rights and provides them with a private right of action to sue nursing homes for violating state laws and regulations

Therefore, AARP opposes SB 430, SB 430 as amended and HB 2306 and any attempts to amend language from HB 2306 into SB 430 or amended bill that would allow limitations of evidence.

We respectfully urge Committee Members not to support this proposed legislation.

Thank you
Ernest Kutzley

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Freedom Amendment Initiative
Presented to the House Health and Human Services Committee
March 17, 2004
Topeka Independent Living Resource Center, Inc.

RE: Amendments to SB 430

Dear Chairperson Morrison and Committee Members;

The Topeka Independent Living Resource Center (TILRC) is a 501(c)(3) not-for-profit civil and human rights organization. Our mission is to advocate for equality, justice and essential services for a fully integrated and accessible society for all people with disabilities. Our center is owned, operated and governed by a majority of people with disabilities, representing people of all ages and cultural diversity. One of our five, federally mandated core areas of service is "Deinstitutionalization," assisting people to move out of institutional settings and live free in a home of their choice. We have hands-on experience with the inner workings of these facilities and have witnessed the many outrageous oppression that residents often face.

HB 2306 and SB 430 are unabashed attempts to **limit the rights of the poor, seniors and people with disabilities** by limiting the use of deficiency reports in situations of abuse, neglect, exploitation and death while residing in a nursing facility. Lost in all discussions to date have been real people and the real choices they must face in their life; the real issue of abuse, neglect and exploitation that happens when family and friends go home. This is not about such simple, petty notions as handling a sandwich without gloves on, nor is it about reducing the cost of insurance; it is only about circumventing human and civil rights!

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We are requesting that the attached amendments be adopted for inclusion into SB 430. Due to the above behaviors of many facilities, we believe it is
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critical for any person facing the crossroads of long term care decisions to be offered, have access to, and receive comprehensive information on all available alternatives to nursing facility residency, prior to admission and at any time during residency. We believe these amendments will provide some level of accountability to our seniors and people with disabilities. We believe it will allow conscientious legislators to demonstrate fairness and return a small degree of decency to the oppressive climate which 430 and 2306 attempt to hide.

Simply stated, adoption of our amendments would provide nursing facility residents with an assurance of their human rights. If we are going to have legislative attempts to reduce civil liberty such as SB 430 and HB 2306, then we must at the minimum take a strong stand in support of basic self determination initiatives, as contained in our amendments. We would not oppose legislation which contains the existing language of SB 430 if these amendments are adopted.

Other supporters of this freedom amendment initiative include the following groups:

Kansas ADAPT
State Independent Living Council of Kansas
The Big Tent Coalition
Kansas Disability Rights Action Coalition for Housing

New Section. 39-968 is amended as follows; Client assessment, referral and evaluation program; definitions; implementation; data entry form; requirements; duties of secretary-of-aging-social and rehabilitation services; long-term care resource information; rules and regulations; ~~voluntary oversight council-state independent living council of Kansas~~ ; resident assessment instrument; annual report. (a) To achieve a quality of life for Kansans with long-term care needs in an environment of choice that maximizes independent living capabilities and recognizes diversity, this act establishes a program which is intended to encourage a wide array of quality, cost-effective and affordable long-term care choices. This program shall be known as client assessment, referral and evaluation (CARE). The purposes-of CARE are for data collection and individual assessment and referral to ~~community-based services and appropriate placement in long-term care opportunities.~~ facilities.

(b) As used in this section:

(1) "Assessment services" means evaluation of an individual's health and functional status to determine the need for long-term care services and to identify ~~appropriate service options~~ which meet these needs utilizing the client assessment, referral and evaluation (CARE) form.

(2) "Health care data governing board" means the board created under K.S.A. 65-6803 and amendments thereto.

(3) "Medical care facility" shall have the meaning ascribed to such term under K.S.A. 65-425 and amendments thereto.

(4) "Nursing facility" shall have the meaning ascribed to such term under K.S.A. 39-923 and amendments thereto.

(5) "Secretary" means the secretary of ~~aging.~~ *social and rehabilitation services.*

(6) "*Resident Assessment Instrument*" a comprehensive, accurate, standardized, reproducible assessment of each long term care facility resident's functional capabilities, which identifies necessary long term care needs.

(7) "*State independent living council of Kansas*" a nonprofit, independent of any state agency, organization that is governed by a board of which are appointed by the governor representing individuals with a broad range of disabilities and are knowledgeable about center's for independent living, independent living philosophy and independent living services and programs. The council assesses the needs for services for Kansans with disabilities and advocates with decision makers, and develops a state plan.

(8) "*Center for independent living*" means a not for profit consumer controlled, cross age, cross disability community based organization that provides services and advocacy to people with disabilities.

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(c) ~~There is hereby established the client assessment, referral and evaluation (CARE) program. The CARE program shall be administered by the secretary of aging social and rehabilitation services and shall be implemented on a phased-in basis in accordance with the provisions of this section.~~

~~—(d) Prior to January 1, 1995, the health care data governing board shall adopt by rules and regulations a client assessment, referral and evaluation (CARE) data entry form. The purpose of this form is for data collection and referral services. Such form shall be concise and questions shall be limited to those necessary to carry out the stated purposes. The client assessment, referral and evaluation (CARE) data entry form shall include, but not be limited to, the preadmission screening and annual resident review (PASARR) questions. Prior to the adoption of the client assessment, referral and evaluation (CARE) data entry form by the health care data governing board, the secretary of aging shall approve the form. The client assessment, referral and evaluation (CARE) data entry form shall be used by all persons providing assessment services.~~

~~(e)(d)- (1) Prior to January 1, 1995, e-Each individual prior to admission to a nursing facility as a resident of the facility shall receive assessment and referral services to be provided by the secretary of social and rehabilitation services except that such services shall be provided by a medical care facility to a patient of the medical care facility who is considering becoming a resident of a nursing facility upon discharge from the medical care facility.~~

~~(2) On and after January 1, 1995, each individual prior to admission to a nursing facility as a resident of the facility shall receive assessment services to be provided by the secretary of aging social and rehabilitation services, with the assistance of area agencies on aging, centers for independent living, except (A) such assessment services shall be provided by a medical care facility to a patient of the medical care facility who is considering becoming a resident of a nursing facility upon discharge from the medical care facility and (B) as authorized by rules and regulations adopted by the secretary of aging social and rehabilitation services pursuant to subsection (i).~~

(3) The provisions of this subsection (e) shall not apply to any individual exempted from preadmission screening and annual resident review under 42 code of federal regulations 483.106.

(4) *Each individual at least annually shall be provided an assessment utilizing a Resident Assessment Instrument as per 42 CFR 483.20 (h)--(F 278) CIL CARE*

assessors shall complete Section Q of the RAI, which shall contain addition state required Q3. which reads;

a) *How long have you indicated a preference to return to the community?*

Date/Length of Time: _____

b) *Have you been provided with information and resource materials to*

obtain assistance with moving back into the community?

Yes No

c) Were you provided use of a phone and/or other resources at the facility in order to obtain assistance with moving back into the community?

Yes; What: _____ No

d) Would you like a referral today in order to obtain assistance with moving back into the community?

Yes No

e) Signature of non-facility/CARE assessor:

~~—(f) (e) The secretary of ~~aging~~ social and rehabilitation services shall cooperate with the area agencies on aging centers for independent living providing assessment services under this section.~~

~~(g) (f) The secretary of ~~aging~~ social and rehabilitation services shall assure that each area agency on aging center for independent living shall compile comprehensive resource information for use by individuals and agencies related to long-term care resources including all area offices of the department of social and rehabilitation services and local health departments. This information shall include, but not be limited to, resources available to assist persons to choose alternatives to institutional care.~~

~~(h) (g) Nursing facilities and medical care facilities shall make available information referenced in subsection (g) to each person seeking admission or upon discharge as appropriate. Any person licensed to practice the healing arts as defined in K.S.A. 65-2802 and amendments thereto shall make the same resource information available to any person identified as seeking or needing long-term care. Each senior center and each area agency on aging shall make available such information.~~

~~—(i) (h) The secretary shall adopt rules and regulations to govern such matters as the secretary deems necessary for the administration of this act.~~

~~—(j) (i)(1) There is hereby established an eleven member voluntary oversight council which shall meet monthly prior to July 1, 1995, for the purpose of assisting the secretary of aging in restructuring the assessment and referral program in a manner consistent with this act and shall meet quarterly thereafter for the purpose of monitoring and advising the secretary regarding the CARE program. The council shall be advisory only, except that the secretary of aging shall file with the council each six months the secretary's response to council comments or recommendations.~~

~~—(2) The secretary of aging shall appoint two representatives of hospitals, two representatives of nursing facilities, two consumers and two representatives of providers of home and community-based services. The secretary of health and environment and the secretary of social and rehabilitation services, or their designee, shall be members of the~~

~~council in addition to the eight appointed members. The secretary of aging shall serve as chairperson of the council. The appointive members of the council shall serve at the pleasure of their appointing authority. Members of the voluntary oversight council shall not be paid compensation, subsistence allowances, mileage or other expenses as otherwise may be authorized by law for attending meetings, or subcommittee meetings, of the council.~~

(i): The state independent living council of Kansas, board shall assume responsibility for advising the secretary on issues concerning the CARE services.

~~(k)~~ (j) The secretary of ~~aging-social and rehabilitation services~~ shall report to the governor and to the legislature ~~on or before December 31, 1995, and each year thereafter on or before such date,~~ an analysis of the information collected under this section. In addition, the secretary of ~~aging-social and rehabilitation services~~ shall provide data from the CARE data forms to ~~the health care data governing board-statewide independent living council of Kansas.~~ Such data shall be provided in such a manner so as not to identify individuals.

New Section. Establishing a long-term care bill of rights; concerning older and disabled Kansans; relating to appropriate long-term care for the elderly and disabled in Kansas; prescribing long-term care principles for future policy development.

WHEREAS, The demand for long-term care services and home and community-based services in Kansas will continue to grow greatly in coming years; and

WHEREAS, People of all ages with disabilities and older persons in Kansas need access to a comprehensive array of long-term care services that includes institutional and home and community-based services; and

WHEREAS, The cost of providing long-term care in Kansas is increasing rapidly, with a disproportionate share of state funds allocated to providing institutional care; and

WHEREAS, Waiting lists to access needed home and community-based services, where Kansans of all ages want to receive services, continue to grow; and

WHEREAS, The vast majority of disabled persons of all ages and seniors want to live their lives with dignity, freedom and independence and want to be able to choose appropriate levels and kinds of care, when needed: Now, therefore,

(a) The state of Kansas finds and declares that, in keeping with the traditional concept of the inherent dignity of the individual in our democratic society, the older and disabled individuals are entitled to enjoy their life in health, honor and dignity; that funding for long-term care and home and community-based services is a priority; and that future state policy development shall be guided by the following principles:

(1) The state of Kansas shall strive to provide a comprehensive, integrated long-

term care system that is responsive to the varied long-term care needs of Kansans of any age or economic status;

- (2) public policy related to long-term care should stress the individual's choice, autonomy, self-determination and privacy;
- (3) the elderly and disabled Kansans shall receive the necessary care and services at the least cost and in the least confining setting;
- (4) public funding for long-term care shall afford Kansans throughout the state the choice of a broad array of home and community-based services;
- (5) public funding shall improve access to and stress options geared to maximum choice to independence in a community setting;
- (6) long-term care system eligibility requirements and reimbursements shall create incentives to serve people in the most appropriate care setting of their choice;
- (7) home and community-based care services shall be expanded and improved to support and complement the services provided by informal caregivers;
- (8) consumers should have meaningful information about their care choices, as well as the quality of care provided by providers of all kinds, for their decision making; and
- (9) the system should have a strong advocacy and oversight system to help those in need.

(b) In carrying out the principles stated in subsection (a), the state of Kansas shall:

- (1) Designate the departments of Social and Rehabilitation Services and Aging and the State Medicaid agency to coordinate the effective provision of long-term care and home and community-based services to older and disabled Kansans to ensure that long-term care and home and community-based services are readily available to the greatest number of persons over the widest geographic area; and
- (2) Create a cost-effective and efficient long-term care system for the future and assures:
 - (A) Maximum choice for each individual; and
 - (B) Balanced use of financial resources to insure access to quality care in the home and in the community; and
 - (C) SRS, KDOA and representatives of consumers shall have the responsibility to continuously develop an array of long-term care services geared to the needs and desires of elderly and disabled Kansans.
 - (D) SRS and KDOA shall make a combined report to the Governor and the Legislature as to the progress of implementing the provisions of this resolution.

(c) This Act shall be known and may be cited as the Kansas Long-Term Care Bill of Rights.